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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 9, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

OAHU

Request for Extension of Cure Period for Notice of Default, Sand Island Business Association, General Lease No. 5261; Honolulu, Oahu; TMK (1) 1-5-41:302

BACKGROUND:

On March 22, 2006, Department of Health (DOH) issued a warning letter to Ekahi Environmental Services, Inc. (Ekahi) regarding the continued use of two (2) underground holding tanks. Ekahi is one of the sub-tenants under General Lease No. 5261 issued to Sand Island Business Association (SIBA). A copy of DOH's warning letter is attached as Exhibit A.

Pursuant to the lease condition of GL 5261, a Notice of Default (NOD) was issued to SIBA on March 31, 2006, citing its failure to comply with Condition No. 14 "Observance of Laws". The cure period of the NOD is 60 days, which expires on June 5, 2006. A copy of the NOD is attached as Exhibit B.

Recently, Ekahi informed DOH that the underground storage tanks have been cleaned and are no longer in use at Ekahi's facility. Staff understands that DOH will conduct an unannounced inspection to the subject facility to verify compliance with DOH's rules. At the time of the preparation of this submittal, no recent inspection has been conducted by DOH. So, SIBA requested that the cure period mentioned in the NOD dated March 31, 2006 be extended to July 31, 2006.

Staff notes that DOH's inspection is essential to the curing of the subject default. Staff has no objection to the request by SIBA to extend the cure period. Further, staff recommends the Board to authorize the Chairperson to extend the cure period beyond July 31, 2006, for good cause.

RECOMMENDATION: That the Board:

1. Extend the cure period of the Notice of Default dated March 31, 2006 under General Lease No. 5261 to Sand Island Business Association to July 31, 2006;
2. Authorize the Chairperson to further extend the cure period of the Notice of Default dated March 31, 2006 under General Lease No. 5261 to Sand Island Business Association beyond July 31,

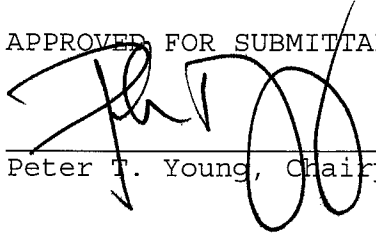
2006, for good cause; and

3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


Barry Cheung
Land Agent

APPROVED FOR SUBMITTAL:


Peter T. Young, Chairperson

LINDA LINGLE
GOVERNOR OF HAWAII



RECEIVED

55022
CHIYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HAWAII 96801-3378

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

In reply, please refer to:
EMD/SHWB

March 22, 2006

S0327AS

CERTIFIED MAIL NO.: 7005 1160 0003 8276 7593
RETURN RECEIPT REQUESTED

WARNING LETTER

Mr. Seann Yardley, President
Ekahi Environmental Services, Inc.
1009 Puuwai Street
Honolulu, Hawaii 96819-4331

Dear Mr. Yardley:

SUBJECT: Ekahi Environmental Services, Inc.
1009 Puuwai Street
Honolulu, Hawaii 96819-4331
TMK: 1-5-41:302

The Solid Waste Section (SWS) of the Hawaii Department of Health (DOH) issued a warning letter dated January 31, 2006, to your facility located at the subject site. As stated in the warning letter, the DOH-SWS required your facility to discontinue employing the two (2) underground holding tanks within thirty (30) calendar days of receipt of the warning letter. This decision was based on two (2) reasons:

1. The continued failure to operate the two (2) underground holding tanks with adequate odor controls.
2. A recycling permit RY-0098-04 was issued to the facility on January 17, 2006, to facilitate the storage and processing of septic/grease trap waste using Alar Auto-Vac Model 660. This permit requires the facility to use the aboveground 30,000-gallon holding tank with a built-in odor control system instead of the two (2) underground holding tanks that do not have built-in odor controls.

The DOH-SWS received your response to our warning letter on February 28, 2006 through your letter dated February 24, 2006. The DOH-SWS understands the following from your response letter:

1. The facility has not yet completed the installation of the new processing system Alar Auto-Vac Model 660 due to logistical constraints. Due to this delay in the installation of the new system, the 30,000-gallon holding tank cannot be used to store waste.

EXHIBIT "A"

Mr. Seann Yardley
March 22, 2006
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2. The facility is requesting permission to use the two (2) underground holding tanks for an additional thirty-day period. The facility intends to employ cam lock fittings and a single portable mister as odor control measures during loading and unloading of waste into these two (2) underground holding tanks.
3. Discharge and removal of waste using these two (2) underground holding tanks will be strictly done by QPM, Inc. during the late night hours and on Sundays.
4. The facility will start processing operations using the Alar Auto-Vac Model 660 within the next thirty (30) days.
5. The facility will continue to inform the DOH-SWS of its future actions.

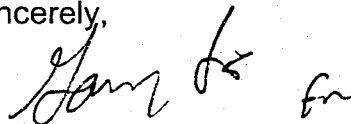
Based on the above understanding from the facility's response letter, the DOH-SWS has made the following determinations on your facility:

1. The facility's response letter dated February 24, 2006, will be treated as a notification to the DOH-SWS of continued noncompliance to permit conditions and efforts taken to come into compliance with permit conditions as required by Standard Permit Condition #10 of your recycling permit RY-0098-04.
2. The DOH-SWS reserves the right to initiate enforcement actions for past and current violations during this period of noncompliance.

Any deficiencies that may be noted in this letter are not necessarily inclusive and any omissions will not be construed as a determination of compliance with any applicable laws.

Should you have any questions regarding this letter, please call Mr. Aroquiaraj Sandou of our Solid Waste Section at (808) 586-4226.

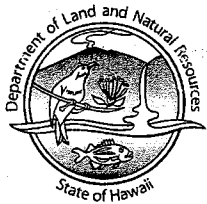
Sincerely,



STEVEN Y.K. CHANG, P.E., CHIEF
Solid and Hazardous Waste Branch

- c: Mr. Rodney Kim, Executive Director, Sand Island Business Association.
✓ Mr. Peter T. Young, Department of Land and Natural Resource, State of Hawaii.

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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DEPUTY DIRECTOR

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Certified Mail: 7003 3110 0005 7373 5036

March 31, 2006

Sand Island Business Association
P.O. Box 17603
Honolulu, Hawaii 96817

Dear Lessee:

NOTICE OF DEFAULT

Pursuant to the authority granted me by the Board of Land and Natural Resources at its meeting of January 11, 1980, and the breach provision contained in General Lease S-5261, you are hereby served a Notice of Default on said lease for failure to do the following:

- X Condition No.14 "Observance of Laws" states "SIBA shall, and it shall be a requirement of each Tenant Lease that each Tenant shall, observe and perform all laws, ordinances, rules and regulations now or hereafter imposed by any governmental authority. SIBA shall require each Tenant, as a provision of each Tenant Lease and at the Tenant's sole cost and expense, to keep the Premises real property and improvements subject to such Tenant Lease in a strictly clean, orderly and sanitary condition, and to indemnify the BLNR against all loss or damage and all actions, suits and claims by whomsoever brought or made, by reason of the nonobservance or nonperformance of said laws, ordinances, rules, regulations or of these covenants."

We received a copy of the "Warning Letter" dated March 22, 2006, from the Department of Health (DOH) addressed to Ekahi Environmental Services, Inc. regarding the continued use of the two (2) underground holding tanks. We are of the understanding this same letter was copied to your office and your tenant contacted DOH regarding compliance with DOH'S requirements.

You are hereby given sixty (60) days from the date of receipt of this letter to cure the above-described breach.

Your failure to act on the above matter will result in the following:

EXHIBIT "B"

1. Cancellation of General Lease S-5261.
2. Retention of all sums heretofore paid under General Lease S-5261 as liquidated damages.
3. Termination of all your rights and obligations under General Lease No. S-5261.

We therefore urge your fullest cooperation. Should you have any questions, please contact our Oahu District Land Branch at (808) 587-0433.

Sincerely,



Peter T. Young
Chairperson

c: Land Board Member
Central Office
Fiscal Office